

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

CLIFFS NATURAL RESOURCES INC.)	CASE NO. 1:16-cv-03034-CAB
)	
Plaintiff,)	JUDGE C. A. Boyko
)	
v.)	
)	
SENECA COAL RESOURCES, LLC, et al.)	Motion to Dismiss
)	
Defendants.)	
)	

Motion to Dismiss

Defendants in this action move for dismissal of Plaintiff's complaint on the following grounds;

1. The individual Defendants¹ move pursuant to F.R.C.P. 12(b)(1) and 12(h)(3) that all claims in the complaint be dismissed against them, since this Court lacks subject matter jurisdiction;
2. The individual Defendants move pursuant to F.R.C.P. 12(b)(6) that all claims in the complaint be dismissed against them, since the complaint fails to state a claim upon which relief can be granted; and,
3. Defendant Seneca Coal Resources ("Seneca") moves pursuant to F.R.C.P. 12(b)(6) that all claims related to fraudulent transfer against it be dismissed, since the complaint fails to state a claim upon which relief can be granted.

To avoid further expense, nuisance and unfairness to the individual Defendants, they should be dismissed from the action on an expedited basis as soon as reasonably possible, so that Plaintiff and Seneca can litigate the commercial disputes that may remain between them.

¹ The individual Defendants are Thomas Clarke, Ana Clarke, Kenneth McCoy and Jason McCoy.

Respectfully submitted,

s/Mark D. Kindt,
Counsel for the Defendants

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CERTIFICATE OF SERVICE

I certify that the foregoing Motion to Dismiss with Memorandum in Support (with exhibits) was served on all parties on January 12, 2017 via the Court's electronic filing system.

s/Mark D. Kindt